

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Implementation of the Local Competition )  
Provisions of the Telecommunications Act of 1996 )

CC Docket No. 96-98

PETITION FOR CLARIFICATION  
OF THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA"),<sup>1</sup> pursuant to the provisions of Section 1.429 of the rules and regulations of the Federal Communications Commission ("FCC" or "Commission"), hereby respectfully requests clarification of the agency's decision in the *Third Order on Reconsideration of Second Report and Order and Memorandum Opinion and Order* (hereinafter *Third Order*) in the above-captioned proceeding.<sup>2</sup> The *Third Order* exclusively addresses petitions for reconsideration of the Section 251 number administration provisions of the Commission's *Local Competition Second Report and Order* in this proceeding.

<sup>1</sup> PCIA is an international trade association established to represent the interests of the commercial and private mobile radio service communications industries and the fixed broadband wireless industry. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the PCS Alliance, the Site Owners and Managers Association, the Private Systems Users Alliance, the Mobile Wireless Communications Alliance, and the Wireless Broadband Alliance. As an FCC-appointed frequency coordinator for the Industrial/Business Pool frequencies below 512 MHz, the 800 MHz and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of FCC licensees.

<sup>2</sup> FCC 99-243, released October 21, 1999. A summary of the *Third Order* together with the text of the revised rules adopted was published in the Federal Register of November 18, 1999. See 64 Federal Register 62983.

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## I. INTRODUCTION

PCIA is concerned that the inadvertent application of paragraph 70 of the *Third Order* to the Industry Numbering Committee's Central Office Code (NXX) Assignment Guidelines (hereinafter "INC Guidelines") could result in service providers being denied access to NXX codes in situations where a single rate center is geographically split to create a new NPA. Because the INC Guidelines call for evaluating a service provider's code request on a "unique rate center" basis, a geographic split that divides a single rate center could result in a service provider being denied access to any codes in the newly-created NPA. To remedy this unintended and anti-competitive outcome, PCIA urges the Commission simply (1) to clarify that paragraph 70 does not impact the operation of the INC Guidelines; and (2) to clarify that where an NPA is geographically split in an area served by a single rate center, each portion of that rate center covered by the new NPA should be treated as a separate rate center solely for purposes of code assignments under the INC Guidelines. In this manner, an unintended and inadvertent threat to the longstanding and pro-competitive operation of the INC Guidelines can be averted.

A service provider must be able to receive an NXX code in the new NPA immediately so that it can provide new customers within the geographic area of the newly-created NPA numbers associated with the new NPA. Unless the service provider is able to receive an NXX code in the new NPA immediately, it will be forced to provide customers in the geographic area of the new NPA only with numbers from the old NPA, which defeats the purpose of a geographic split and creates significant discriminatory and anti-competitive effects that are antithetical to the Commission's numbering policies.

## II. BACKGROUND

The *Local Competition Second Report and Order* provides that State commissions have the discretion, when undertaking a geographic area code split, to implement mandatory or voluntary wireless number takebacks, or they may grandfather wireless numbers. The *Third Order* reaffirms this finding, and, in paragraph 70, introduces a new condition to be imposed on wireless carriers in States that choose to grandfather Type 2 wireless numbers when an NPA is split geographically. The paragraph 70 guideline requires that before obtaining numbering resources in the new NPA, wireless carriers must fully use number resources from the grandfathered (old NPA) NXXs. PCIA is concerned that this guideline may be misconstrued to apply generally to situations where a single rate center is split during the creation of a new NPA. Under this misconception, a service provider could be denied access to codes in the newly created NPA and restricted to only employing codes from the original NPA.

NXX codes are assigned to service providers pursuant to the INC Guidelines. The INC Guidelines were developed beginning in 1991 at the direction of the FCC, and the Part 52 rules require that the North American Numbering Plan Administrator (NANPA) perform its numbering administration functions in accordance with the Guidelines.<sup>3</sup> The INC Guidelines serve to permit carriers to provide service that matches the local calling area of incumbent carriers. To accomplish this, the INC Guidelines permit a service provider to have access to NXX codes for multiple rate centers, evaluating utilization on a rate center by rate center basis.<sup>4</sup>

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<sup>3</sup> See Central Office Code Assignment Guidelines, reissued November 8, 1999, Industry Numbering Committee Document No. 95-0407-008. Hereinafter "INC Guidelines."

<sup>4</sup> See INC Guidelines, Section 4.1, Criteria for the Assignment of Central Office Codes.

In this manner, a low utilization rate in one rate center does not prevent a service provider from obtaining an NXX code necessary to serve another rate center. This is in keeping with the pro-competitive mandate of the number administration provisions of section 251 of the 1996 Telecom Act.

By employing a rate center by rate center analysis, the INC Guidelines do not take into account the creation of new NPAs by splitting (and thereafter maintaining) a single rate center. Notwithstanding there being a new NPA, there would not be a new rate center, and hence the service provider may be denied access to NXX codes in the newly-created NPA.

### **III. COMMISSION CLARIFICATION WOULD REMOVE AN INADVERTENT ANTI-COMPETITIVE THREAT TO THE VALIDITY OF THE INC GUIDELINES**

Where a geographic split to create one or more new NPAs involves a single rate center, the individual rate center analysis employed by the INC Guidelines would operate so as not to permit a service provider to obtain an NXX in the new NPA(s).<sup>5</sup> This denial of access to NXX codes from the new NPA is an anti-competitive outcome clearly unintended by paragraph 70 of the *Third Order*, as well as the INC Guidelines, which operate to allow a service provider access to its local calling area. To remedy this inadvertent outcome, PCIA strongly urges the Commission to clarify that (1) paragraph 70 does not alter operation of the INC Guidelines, and (2) that where an NPA is geographically split in an area served by a single rate center, the

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<sup>5</sup> The Phoenix NPA presents an example of a single large rate center that was geographically split to create new NPAs. The new NPAs remain within the single rate center.

territory of that rate center covered by the newly-created NPA should be treated as a separate rate center solely for purposes of the INC Guidelines.<sup>6</sup>

PCIA notes that fair access to numbers pursuant to the INC Guidelines is not just a “wireless” concern. All industry segments, both new and existing carriers, would stand to be denied access to codes in the new NPA if the requested clarification is not made. The Commission ought to recognize that this clarification would result in a carrier getting, at most, one additional code without meeting INC utilization guidelines. As more States recognize the benefits of rate center consolidation, this clarification is essential to maintain the pro-competitive operation of the INC Guidelines. The benefit to competition far outweighs any negative impact on number conservation.

#### **IV. CONCLUSION**

PCIA respectfully asks that the Commission make the requested clarifications with


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<sup>6</sup> More specifically, each portion of a single rate center transected by one or more NPAs should be treated as a separate rate center for purposes of the INC Guidelines.

respect to paragraph 70 and the INC Guidelines.

Respectfully submitted,

**PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

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Dated: December 20, 1999

**CERTIFICATE OF SERVICE**

I, Harold Salters, do hereby certify that on this 20<sup>th</sup> day of December, 1999, a copy of the foregoing was served, by the method so described, to the parties listed below:

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